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In re application of
Alexander Kaplan et al.
Serial No. 09/558,645
Filed: April 26, 2000
For: CATHODE FOR AIR ASSISTED BATTERY

DECISION ON
PETITION

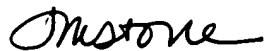
This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed August 8, 2003, for failure to timely reply to the Office action dated December 24, 2002.

DECISION

Since petitioner asserts that the Office action was never received, the request qualifies as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did receive the Office letter, mailed December 24, 2002 and replied March 24, 2003. Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for consideration of the response filed March 24, 2003.

The term of a patent issuing from a utility or plant application filed on or after June 8, 1995 ends on the date that is twenty years from the filing date of the application, or the earliest filing date for which a benefit is claimed under 35 U.S.C. § 120, 121, or 365(c). Utility and plant applications filed on or after May 29, 2000, however, are eligible for patent term adjustment under the American Inventors Protection Act of 1999 (AIPA). Therefore, if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, any patent term adjustment will be reduced under the provisions of 37 CFR 1.704(c)(4). If applicant does not receive the notice of abandonment, any patent term adjustment may be reduced under the provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application, in which case any period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date that is twelve months from the date of applicant's filing or submission of correspondence with the USPTO for which further action by the USPTO can reasonably be expected and ending on the filing date of a grantable petition to withdraw the holding of abandonment.

Therefore, the Petition is **GRANTED.**



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